IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WA.No. 2629 of 2007

AGAINST THE JUDGEMENT IN WPC.31515/2007 Dated 25/10/2007

.....

APPELLANT: PETITIONER:

M/S. RASNA PRIVATE LTD.,
XVII/603, KAROTHUKUZHY JUNCTION,
MARKET ROAD, ALUVA,
ERNAKULAM DISTRICT,
REPRESENTED BY ITS POWER OF ATTORNEY HOLDER M.M.ABDUL KHADER.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SRI.MAHESH V.MENON

RESPONDENTS: RESPONDENTS:

---

1. INTELLIGENCE OFFICER (IB),
DEPARTMENT OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

2. DEPUTY COMMISSIONER OF COMMERCIAL TAXES (APPEALS)
THIRUVANANTHAPURAM.

3. THE MANAGER,
IDBI BANK,
M.G.ROAD,
ERNAKULAM.

R1 & R2 BY SPECIAL GOVERNMENT PLEADER SRI.VINOD CHANDRAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07/11/2007, ALONG WITH WA NO. 2631 OF 2007 WA NO. 2632 OF 2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A. Nos. 2629 of 2007, 2631 of 2007 & 2632 of 2007

Dated this the 7th day of November, 2007.

J U D G M E N T

H.L.Dattu, C.J.

Aggrieved by the orders passed by the Deputy Commissioner (Appeals), Thiruvananthapuram in KVATA Nos. 244/07 & 246/07, 243/07 & 247/07 and 245/07 & 248/07 dated 11-10-2007, the appellants before the Deputy Commissioner have filed W.P.(C). Nos.31515 of 2007, 31541 of 2007 and 31546 of 2007 respectively. The learned Single Judge, while disposing of the writ petitions by his order dated 25th October, 2007 has modified the interim orders passed by the first appellate authority. Aggrieved by the said order passed by the learned Single Judge, the petitioners in the writ petitions have presented these writ appeals.

(2). The learned Single Judge, while disposing of the writ petitions, in his order has observed that the petitioners have made out a prima facie case and having come to the conclusion, further directs the petitioners to deposit 25% of penalty imposed by the Intelligence Officer, Department of Commercial Taxes, Thiruvananthapuram.

(3). In the normal course, we would not have entertained these writ appeals. But, in our opinion, since the learned Single Judge himself is of the opinion that, the petitioners have made out a prima facie case, he could have stayed the interim orders passed by the first appellate authority.

(4). In view of the above, we intend to modify the orders passed by the learned Single Judge and then direct the first appellate authority to dispose of the appeals filed by the petitioners, without insisting on any payment during the pendency of the appeals. Accordingly, we pass the following:

ORDER

(i). The Writ Appeals are disposed of.

(ii). The first appellate authority is directed to consider the appeals filed by the petitioners, within two months from the date of receipt of a copy of this Court's order, without insisting on the petitioners/appellants from making any pre-deposit as ordered by him on 11-10-2007 and as ordered by the learned Single Judge while disposing of the writ petitions.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

MS/DK